

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA, ) Crim. No. 03-00200-05 HG  
                              )  
                              Plaintiff,     )  
                              )  
                             vs.              )  
                              )  
ANTHONY VALENTIN,     (05)     )  
                              )  
                             Defendant.    )  
                              )  
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**ORDER GRANTING GOVERNMENT'S MOTION FOR REDUCTION  
OF SENTENCE FOR SUBSTANTIAL ASSISTANCE**

On October 8, 2003, Defendant Anthony Valentin ("Valentin") plead guilty to conspiracy to distribute and to possess with intent to distribute more than 50 grams of methamphetamine in violation of 21 U.S.C. §§ 841(a)(1) and 846 (Count 1 of the Second Superseding Indictment). (Doc. 109.)

On June 30, 2005, the Government filed a Motion For § 5K1.1 Downward Departure And Sentencing Recommendation based upon pre-sentence substantial assistance to government authorities. ("Motion for Downward Departure", Doc. 422.) The Government indicated in the Motion for Downward Departure that further relief pursuant to Fed. R. Crim. Proc., Rule 35 might be a possibility if Valentin provided post-sentence assistance to the Government. (Doc. 422 at 7.)

At the sentencing hearing on July 14, 2005, the Court granted the Government's Motion For Downward Departure. (Doc.

432.) The Court sentenced Valentin to 115 months of confinement as to Count 1. Valentin was also sentenced to a term of 10 years of supervised release as to Count 1.

On June 2, 2006, the Government filed a Protective Rule 35 Substantial Assistance Motion, ("Rule 35 Motion", Doc. 481), pursuant to Federal Rules of Criminal Procedure (Fed. R. Crim. P.), Rule 35. The Rule 35 Motion requests a reduction of Defendant's sentence for the substantial assistance the Defendant provided the Government authorities. The Government requested a deferral of consideration of the Rule 35 Motion pending further investigation of matters connected to mainland conspirators.

On September 25, 2007, the Government filed a Supplemental Rule 35 Statement pursuant to Fed. R. Crim. P., Rule 35. ("Supplemental Statement", Doc. 501.) The Supplemental Statement recommends a 24-30 month reduction of Valentin's sentence on Count 1 from 115 months to 85-91 months.

On October 1, 2007, Valentin filed a Joinder In Government's Rule 35 Motion. ("Joinder", Doc. 503.) Valentin asked the Court to re-sentence him to 85 months, the low end of the advisory guideline range recommended by the Government.

#### STANDARD OF REVIEW

Federal Rule of Criminal Procedure 35(b)(1) provides:

**(1) In General.** Upon the government's motion made within one year of sentencing, the court may reduce a sentence if:

(A) the defendant, after sentencing, provided substantial assistance in investigating or prosecuting another person; and

(B) reducing the sentence accords with the Sentencing Commission's guidelines and policy statements.

Federal Rule of Criminal Procedure 35(b)(2)(B) provides:

**(2) Later Motion.** Upon the government's motion made more than one year after sentencing, the court may reduce a sentence if the defendant's substantial assistance involved:

. . .

(B) information provided by the defendant to the government within one year of sentencing, but which did not become useful to the government until more than one year after sentencing; . . . .

A Rule 35 motion is essentially a plea for leniency and is addressed to the sound discretion of the district court. United States v. Smith, 964 F.2d 885, 887 (9th Cir. 1992); United States v. Hooton, 693 F.2d 857, 859 (9th Cir. 1982).

#### ANALYSIS

The Court finds that Valentin substantially assisted the Government in the investigation and prosecution of criminal activity. Valentin is entitled to a reduction of his sentence pursuant to Rule 35(b)(1) and (b)(2)(B). The Court re-sentences Valentin to 85 months. Based on the nature of Valentin's cooperation, the Court finds that a sentence reduction of 30 months is appropriate and is consistent with the Sentencing Guidelines and the Sentencing Commission's policy statements.

**CONCLUSION**

In accordance with the foregoing, the Court **GRANTS** the Government's motion to reduce Valentin's sentence. The Court sentences Valentin to 85 months imprisonment. All other aspects of Valentin's sentence remain unchanged.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, December 13, 2007.



/s/ Helen Gillmor

Chief United States District Judge

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United States v. Anthony Valentin, Crim. No. 03-00200-05 HG; **ORDER  
GRANTING GOVERNMENT'S MOTION FOR REDUCTION OF SENTENCE FOR  
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